SECTIONS.
81. Recoveries how made.
82. Government to frame rules.
83. Government to determine duties of hereditary officers.
84. Grant of powers to special officer.
85. Act not to affect Bombay Act VIII of 1867.

SCHEDULE.—[*Repealed.*]
SECOND SCHEDULE.—OFFENCES REFERRED TO IN SECTION 60.

BOMBAY ACT No. III OF 1874 [a].

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 5th February, 1875.*)

An Act to amend the law relating to hereditary offices.

Preamble. WHEREAS it is expedient to declare and amend the law relating to hereditary offices; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title. 1. This Act may be called the Bombay Hereditary Offices Act.

It extends to the regulation districts and to all villages therein, whether alienated or otherwise, so far as its provisions shall not conflict with the terms on which any such alienated village may have been secured to the holder thereof.

Nothing in this Act shall affect the powers of Government to deal with any wátán or parts of wátáns, or with the profits thereof, respectively, under Act No. XI of 1852 [b], or Bombay Acts Nos. II [c] and VII [d] of 1863, or any other law at present in force with respect thereto.

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[a] In applying Bom. Act III of 1874 (as amended by Bom. Act V of 1886) to Matádárs in the Districts of Ahmedabad, Kaira, Broach and Surat, and in villages in the Páuch Maháls district to which Bom. Act VI of 1887 is extended,—

(1) the meaning of the terms "wátán" and "wátándár", and ss. 33, 34 and 60, are subject to modification; and

(2) ss. 24 to 31, 36 to 59, 61, 62, 67, 69 and 71, parts of s. 73, and the definitions of "wátándár" and "representative wátándár" in s. 4, are to be deemed to be repealed—see Bom. Act VI of 1887, ss. 1 and 3, in Vol. III of this Code.

Subject to the said modifications and repeals, Bom. Act VI of 1887 is to be read as one with Bom. Act III of 1874—see Bom. Act VI of 1887, s. 4. For further modifications, see ss. 5 *et seq.* of the latter Act.

[b] Printed in Vol. I of this Code. p. 60.

[c] Printed *supra*, p. 17.

[d] Printed *supra*, p. 65.

2. [*Repeal of enactments.*] *Repealed by Act XII of 1876.*

3. Parts VI, VII, VIII and IX [a] shall not apply to hereditary offices of lower degree than patel or kulkarni, nor to wátáns appertaining to such offices. Application of Parts VI, VII, VIII and IX.

4. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

"wátán-property" means the moveable or immoveable property held, acquired or assigned for providing remuneration for the performance of the duty appertaining to an hereditary office;

it includes a right to levy customary fees or perquisites, in money or in kind, whether at fixed times or otherwise;

it includes cash payments in addition to the original wátán-property made voluntarily by Government and subject periodically to modification or withdrawal:

"hereditary office" means every office held hereditarily for the performance of duties connected with the administration or collection of the public revenue or with the village-police, or with the settlement of boundaries, or other matters of civil administration;

the expression includes such office even where the services originally appertaining to it have ceased to be demanded:

the wátán-property, if any, and the hereditary office and the rights and privileges attached to them, together constitute the wátán:

[b] "wátándár" means a person having an hereditary interest in a wátán; it includes a person holding wátán property acquired by him before the introduction of the British Government into the locality of the wátán, or legally acquired subsequent to such introduction, and a person holding such property from him by inheritance; it includes a person adopted by an owner of a wátán or part of a wátán, subject to the conditions specified in sections 33 to 35 [a]:

"family" includes each of the branches of the family descended from an original wátándár: Provided that no sub-division shall be recognized except as hereinafter provided in section 26:

"head of a family" includes the chief representative of each branch of a family:

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] As to the local repeal of this definition see footnote [*] on last preceding page.

[a] "representative wátándár" means a wátándár registered by the Collector under section 25[b] as having a right to perform the duties of a hereditary office:

"officiator" means the person actually performing the duties of an hereditary office for the time being, whether he be a representative wátándár or a deputy or a substitute appointed under any of the provisions [c] of this Act [c].

"guardian" means a relation or other person to whom the care, nurture or custody of any child falls by natural right or recognized usage, or who has accepted or assumed directly the care, nurture or custody of any child, or in case of dispute the holder of a certificate of guardianship from a competent Court.

PART II.

WÁTÁN-PROPERTY AND PROFITS THEREOF.

Prohibition of alienation of wátán and wátán rights.

[d] **5.** (*1*) Without the sanction of Government it shall not be competent—

(*a*) to a wátándár to mortgage, charge, alienate or lease, for a period beyond the term of his natural life, any wátán, or any part thereof, or any interest therein, to or for the benefit of any person who is not a wátándár of the same wátán;

(*b*) to a representative wátándár to mortgage, charge, lease or alienate any right with which he is invested, as such, under this Act.

(*2*) In the case of any wátán in respect of which a service commutation settlement has been effected, either under section 15 or before that section came into force, clause (*a*) of this section shall apply to such wátán unless the right of alienating the wátán without the sanction of Government is conferred upon the wátándárs by the terms of such settlement or has been acquired by them under the said terms.

Collector may institute legal proceedings for protection of wátán.

6. *Clause 1.*—In any case in which it shall appear to the Collector that the institution of legal proceedings is requisite or desirable with respect to any wátán, or the estate, property, funds or affairs thereof, the Collector shall

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[a] As to the local repeal of this definition see footnote [a] on p. 192, *supra*.

[b] Words repealed by Bom. Act III of 1886 are omitted.

[c-c] These words were repealed by Bom. Act III of 1886 and re-inserted by Act XVI of 1895.

[d] This section was substituted for the original s. 5 by Bom. Act V of 1886, s. 1. As to postponement of female members, and as to interest of widow, see *ib.*, s. 2, in Vol. III of this Code.

certify such case in writing under his hand to the [a] Commissioner, together with such statements and particulars as in his opinion may be requisite or proper for the explanation of such case, and thereupon the said [a] Commissioner, if upon consideration of the circumstances he thinks fit, shall authorize the Collector to institute and prosecute in the name of the Collector such legal proceedings as may appear requisite or proper for the protection of the wátán, its estates, property, funds or affairs, by suit or petition in any Civil Court having jurisdiction in the matter. The cost of such proceedings, unless recovered from the opposite party, shall be paid out of the funds of the wátán.

Clause 2.—The Collector may, if he thinks fit, proceed as provided in sections 8, 9, 10, 11 or 13 [a] in lieu of instituting or prosecuting legal proceedings under this section.

Collector may proceed under sections 8 to 11, or 13.

7. Wátán-property assigned under section 23 [a] as remuneration of an officiator, and the profits of wátán-property so assigned, shall not be alienated or assigned to any person whatever without the sanction of Government.

Wátán assigned as remuneration not alienable without sanction.

8. Whenever any wátán or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have before the date of this Act coming into force passed by virtue of, or in execution of, a decree or order of any British Court into the ownership or beneficial possession of any person other than the officiator for the time being, or has or have before such date passed otherwise than by virtue of, or in execution of, a decree or order of any British Court into the ownership or beneficial possession of a wátándár other than such officiator; or

Wátán-property passed into possession of person other than officiator liable to contribution for remuneration of officiator.

when any wátán, or part or profits thereof, not being assigned as remuneration of an officiator, has, after the date of this Act coming into force, passed by virtue of, or in execution of, a decree or order of any British Court or otherwise, into the ownership or beneficial possession of a wátándár other than such officiator;

such wátán or any part thereof, or any of the profits thereof, shall be liable under the orders of the Collector to contribution for the remuneration of such officiator in like manner and to the like extent as if no such decree had been passed or no such transfer had taken place.

9. *Clause 1.*—Whenever any wátán or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have, before the date of this Act coming into force, passed otherwise than by virtue of, or in execution of, a decree or order of any British Court, and without the consent of the Collector and transfer of ownership in the revenue-

Collector may declare alienation of wátán-property to be under certain circumstances null and void.

[a] Words repealed by Bom. Act III of 1886 are omitted.

records, into the ownership or beneficial possession of any person not a wátándár of the same wátán, the Collector may, after recording his reasons in writing, declare such alienation to be null and void, and order that such wátán or any part thereof, or any of the profits thereof, shall from the date of such order belong to the wátándár previously entitled thereto, and may recover and pay to such wátándár any profits thereof accordingly.

Collector may in case of land recover full rent.

Clause 2.—If such part of a wátán be land, it shall be lawful for the Collector, instead of transferring the possession of the land, to demand and recover the full rent ordinarily paid by tenants of land of similar description in the same locality, and the amount so recovered shall be considered as the profits. The decision of the Collector as to what is the full rent shall be final.

Civil Court on Collector's certificate, to remove attachment on wátán-property assigned as remuneration of officiator.

10. When it shall appear to the Collector that by virtue of, or in execution of, a decree or order of any British Court any wátán or any part thereof, or any of the profits thereof, recorded as such in the revenue-records or registered under this Act, and assigned under section 23 [a] as remuneration of an officiator, has or have after the date [b]of this Act[b] coming into force, passed or may pass without the sanction of Government into the ownership or beneficial possession of any person other than the officiator for the time being; or that any such wátán or any part thereof, or any of the profits thereof, not so assigned, has or have so passed [c]or may pass[c] into the ownership or beneficial possession of any person not a wátándár of the same wátán, the Court shall, on receipt of a certificate under the hand and seal of the Collector, stating that the property to which the decree or order relates is a wátán or part of a wátán, or that such property constitutes the profits or part of the profits of a wátán, or is assigned as the remuneration of an officiator, and is therefore inalienable, remove any attachment or other process then pending against the said wátán or any part thereof, or any of the profits thereof, and set aside any sale or order of sale or transfer thereof, and shall cancel the decree or order complained of so far as it concerns the said wátán or any part thereof, or any of the profits thereof.

Collector may declare null and void alienation of wátán-property made after passing of Act.

11. When any alienation of the nature described in section 10 [a] shall take place otherwise than by virtue of, or in execution of, a decree or order of any British Court, the Collector shall, after recording his reasons in writing, declare such alienation to be null and void.[d]

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b.b] These words were repealed by Bom. Act III of 1886 and re-inserted by Act XVI of 1895.
[c.c] These words were inserted by Bom. Act V of 1886, s. 3.
[d] Portion repealed by Bom. Act V of 1886, s. 4, is omitted.

[a] **11A.** The Collector shall either summarily resume possession of all property to which an order of a Court passed on receipt of his certificate under section 10, or his own declaration under section 11, relates, or assess it at the rate prescribed in clause (*2*) of section 9, as he may think fit, and the said property shall thenceforward revert to the wátán. Resumption of property to which an order made under section 10 or section 11 applies.

12. It shall be lawful for the Collector, whenever it may be necessary, in carrying out the provisions of sections 8, 9, and 11 [b]— Powers of Collector to carry out provisions of sections 8, 9 and 11.

(*a*) to summarily evict any person wrongfully in possession of any land, or

(*b*) to levy any rent due by any person in the manner that may be prescribed in any law for the time being in force for the levy of a revenue demand.

13. Wátán-property as signed as remuneration of an officiator under section 23 [b] and the profits of such wátán-property are not liable to process of any Civil Court. Wátán assigned as remuneration not liable to process of Court.

On receipt of a certificate under the hand and seal of a Collector, to the effect that certain property designated therein is wátán-property so assigned, the Court shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such property or the profits thereof.

14. *Clause 1.*—It shall be lawful for a Collector, for reasons to be stated in writing, to combine two or more wátáns held for the performance of similar services in the same village or parts of the same village. Combination of hereditary offices.

Clause 2.—[*Validation of prior combinations.*] *Repealed by Act XVI of 1895.*

PART III.

Commutation of Wátáns.

15. *Clause 1.*—The Collector may, with the consent of the holder of a wátán, given in writing, relieve him and his heirs and successors in perpetuity of their liability to perform service upon such conditions, whether consistent with the provisions of this Act or not, as may be agreed upon by the Collector and such holder. Commutation of service.

Clause 2.—[*Validation of prior settlements.*] *Repealed by Act XVI of 1895.*

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[a] Section 11A was inserted by Bom. Act V of 1886, s. 5.
[b] Words repealed by Bom. Act III of 1886 are omitted.

Settlement on whom to be binding.

Clause 3.—Every settlement made or confirmed under this section shall be binding upon both Government and the holder of the wátán and his heirs and successors.

Who is a "holder".

Clause 4.—The word "holder," for the purposes of this section, includes any sole owner or the whole number of joint owners or any person dealt with as representative of the persons beneficially interested or entered as such in the Government-records at the time of the settlement.

Rights of individuals to exact customary service from village-servants not affected.

16. Nothing in the last preceding section shall be held to affect any rights of individuals or village-communities to exact such service as may be customary from village-servants whose wátáns were originally granted or are now held for the performance of such service, but who have been relieved by Government of liability to perform such service to the State.

Assessment of amount of payments in alienated villages.

17. When all or any of the property of a watan consists of payments of whatever description, whether in money or kind, made by jágírdárs, inámdárs, mehwassi chiefs, or others owning or occupying immoveable property wholly or partially free from assessment, the Collector may from time to time determine the amount of such payments recoverable: Provided that no larger demand shall be made than one equivalent to the amount that would be payable under the scale in force for the time being in the case of Government villages.

Appointment of panchâyat to define rights and duties of certain classes of wátándárs.

18. When all or any of the property of a village-wátán of lower degree than that of patel or kulkarni consists of a right to levy in money or kind directly from individuals, it shall be lawful for the Collector, on the application of any person interested, to cause the nature and extent of such right and of the duties to be performed, and the persons, families or classes liable to make payment and to perform the duties, to be defined in writing by a panchâyat of five persons, whereof two shall be appointed by the villagers, two by the wátándárs, and one, who shall be sar-pánch, by the Collector.

The decision shall be in accordance with the opinion of the majority of the panchâyat: Provided that, in case the villagers or the wátándárs fail to nominate members within seven days, the Collector shall appoint such members as may be required to constitute a panchâyat of five:

Provided also that, in case the panchâyat do not come to a decision within seven days from the appointment of the sar-pánch, the Collector may himself pass a decision.

The decision of the panchâyat or of the Collector, as above provided, shall be final and binding on all persons or classes whose rights, duties or liabilities have been submitted to such decision.

(Part III.—Commutation of Wátáns. Secs. 19-21. Part IV.—Creation and Lapse of Wátáns. Sec. 22. Part V.—Remuneration of Officiators. Sec. 23.)

Mode of fixing amount payable when profits of wátán fluctuate.

19. Whenever, on failure of the panchâyat to come to a decision, the Collector, acting under the last preceding section, passes a decision, and it appears that the profits of the wátán or part thereof are of fluctuating amount, or are payable in kind, it shall be lawful for the Collector to determine the amount payable and to decide whether the payment shall be made in kind or money.

Validity of settlements made prior to passing of Act.

20. Any settlement of the nature described in sections 17, 18 or 19 [a] made before the date of this Act coming into force, by a Collector or other officer duly authorized by Government, shall have the same force as if made under this Act.

Settlements for such period as Government may direct.

21. Settlements of the nature described in sections 17, 18 and 19 [a], made after this Act comes into force, shall be made for such periods as the Governor in Council may from time to time direct.

PART IV.

Creation and Lapse of Wátáns.

Creation of new wátáns.

22. When no wátán exists, it shall be lawful for Government to create one, and in so doing to assign, subject to such sanction as may be required by any law, or order of the Governor General of India in Council, for the time being in force, such property of Government as to Government may seem fit.

Such wátán shall be subject to all the provisions of this Act, and the wátándárs shall exercise the powers and perform the duties conferred and imposed by this Act or any other law for the time being in force.

When a wátán or part of a wátán has lapsed or has been confiscated or otherwise lawfully resumed by Government, or when the right of any particular family to hold a wátán does not exist or is not established, it shall be lawful for Government, subject to the sanction mentioned in the first clause of this section, to assign such wátán or part of a wátán to such person or persons as to Government may seem fit.

PART V.

Remuneration of Officiators.

Collector to fix emoluments of

23. Subject to the provisions of this Act and of any other law for the time being in force regarding service-ináms, cash allowances and pensions, it

[a] Words repealed by Bom. Act III of 1886 are omitted.

shall be the duty of the Collector to fix the annual emoluments of officiators appointed under the provisions of this Act, and to direct the payment thereof to the officiators for the time being.

Collector may assign wátán property for purpose.

It shall be lawful for the Collector for this purpose to assign wátán property, or the profits thereof, towards the emoluments of officiators.

The existing assignments shall, until altered by competent authority, be taken to have been made under this section.

With the sanction of Government the Collector may, as occasion arises, alter the assignment and may increase or diminish it in value, such increase or diminution being made rateably among the holders in proportion to the profit derived by such holders respectively from the wátán.

PART VI.

Representative Wátándárs.

Duties to be performed by representative wátándárs.

[a] **24.** The duties appertaining to any hereditary office shall be performed by the representative wátándárs or by deputies or substitutes as hereinafter provided, and by no other persons.

Determination and registration of representative wátándárs.

[a] **25.** It shall be the duty of the Collector to determine, as hereinafter provided, the custom of the wátán as to service and what persons shall be recognized as representative wátándárs for the purpose of this Act, and to register their names.

Previous practice to be considered in determining who are representative wátándárs.

[a] **26.** In determining what heads of families shall be recognized as representative wátándárs and what is the custom of the wátán as to service, the Collector shall inquire into and take into consideration the practice heretofore observed from the earliest period for which there are records or other evidence available:

Provided that he shall not be bound to recognize appointments or subdivisions which have been made subsequently to the introduction of Act No. XI of 1843 [b], and which he considers to be contrary to the custom of the wátán.

Registration of head of family as sole representative wátándár.

[a] **27.** If it shall appear to the Collector that the custom has been for a member of one family only to serve, the Collector shall register the name of the head of such family only as the representative wátándár and no other person.

Registration of heads of families as representative wátándárs.

[a] **28.** If it shall appear to the Collector that the custom has been for a member of each of several families to perform the duties either contempora-

[a] As to the local repeal of ss. 24 to 28 see footnote [a] on p. 192, *supra*.
[b] Act XI of 1843 was repealed by s. 2 of this Act.

neously or for successive periods, the Collector shall register the name of the head of each of such families as representative wátándárs and no other persons, and, where the practice of service in successive periods is proved to exist, he shall decide the order in which the representative wátándárs shall officiate.

Registration of head of eldest family as sole representative wátándár.

[a] **29.** *Clause 1.*—Where the practice of service in successive periods appears to have existed, but is not proved to the satisfaction of the Collector to have existed at the date of the introduction of Act No. XI of 1843 [b], or when the practice of selection by the Collector from several families prevails, he shall determine who is the head of the eldest family descended from the original wátándár, and shall register his name as sole representative wátándár.

Registration of heads of separate families as representative wátándárs.

Clause 2.—In cases where such several families are not descended from a common ancestor, the Collector shall register as representative wátándárs the heads of such families, and establish the practice of service in successive periods.

Registration as representative wátándár of head of each family in amalgamated wátán.

[a] **30.** When the practice of service in successive periods has been introduced under the British rule, in consequence of the reduction in the number of officiators [c] or the amalgamation of wátáns by Government, the head of each family that formerly officiated shall be separately entered as a representative wátándár.

Procedure if heads of families agree as to who are representative wátándárs.

[a] **31.** But, if in any case described in section 29, [d] the heads of families at any time before the completion of the register prescribed by this Act agree unanimously in writing, or have in writing agreed during the inquiry made in the preparation of the existing registers, as to who are the representative wátándárs, and as to the order of service, then the register prescribed in this Act shall be prepared in accordance with such agreement.

Right of service to remain after relinquishment of property.

32. When wátán property or profits have been voluntarily relinquished without abandonment of right of service, such right of service shall be dealt with as if the wátándárs were still in receipt of such emoluments.

Notice of adoption if heir has been adopted prior to passing of Act.

[a] **33.** In any case in which, before the coming of this Act into force, any registered representative wátándár or his widow shall have adopted

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[a] As to the local repeal of ss. 29 to 31, and modification of s. 33, see footnote [a] on p. 192, *supra*.

[b] Act XI of 1843 was repealed by s. 2 of this Act.

[c] "Officiators" was substituted for "sharers" by Bom. Act V of 1886, s. 6.

[d] Words repealed by Bom. Act. III of 1886 are omitted.

an heir, notice of the same shall, within twelve months from the coming into force of this Act, be given by or on behalf of such adopted heir to the Collector, who shall register the name of such heir accordingly.

But if such adoption shall be shown to have been or shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

Notice of adoption when heir adopted after passing of Act.

[a] **34.** In any case in which, after the coming of this Act into force, any registered representative wátándár or his widow shall adopt an heir, report of such adoption shall within three months be made to the Collector by such wátándár, or by his widow, or in case of their death then by such adopted heir, or by the guardian of the latter, and the Collector shall register the name of such heir accordingly.

But if such adoption shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

Procedure if notice of adoption not duly given.

35. In any case in which [b] notice or [b] report of such adoption shall not be made as herein directed, the Collector shall not recognize the same without the production of a certificate of heirship, or of a final decree of a competent Court establishing the validity of such adoption.

Death of representative wátándár to be reported; name of heir to be registered.

[a] **36.** When any representative wátándár dies it shall be the duty of the patel and village-accountant to report the fact to the Collector; and the Collector shall, if satisfied of the truth of the report, register the name of the eldest son or other person appearing to be nearest heir of such wátándár as representative wátándár in place of the wátándár so deceased.

A certificate of heirship or a decree of a competent Court shall, until revoked or set aisde, be conclusive proof of the facts stated or determined in such certificate or decree.

Guardian of minor wátándár to perform duties of minor.

[a] **37.** When any head of a family or representative wátándár is under the age of eighteen years, his guardian may, subject to the provisions of section 51[c], exercise all powers and perform all duties conferred and imposed by this Act.

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[a] As to the local modification of s. 34 and repeal of ss. 36 and 37, see footnote [a] on p. 192, *supra*.

[b-b] These words were inserted by Bom. Act V of 1886, s. 7.

[c] Words repealed by Bom. Act III of 1886 are omitted.

PART VII.

Periods of Service.

Representative wátándárs to serve for life or for fixed periods of five or ten years.

[a,b] **38.** Subject to the provisions of sections 45 and 46, representative wátándárs shall be entitled to office for the following periods, respectively, (namely) :—

(*a*) in cases falling under section 28 or section 29, clause (2), or section 30 or section 31, in which the representative wátándárs are entitled to office contemporaneously, and in cases falling under section 27 or section 29, clause (1), } for life.

(*b*) in cases falling under section 28 or section 29, clause (2), or section 30 or section 31, in which the representative wátándárs are entitled to office in successive periods, } for such period as the Collector shall in each case determine, the same being not less than five nor more than ten years.

Procedure on death of officiator.

[a] **39.** In the event of the officiating wátándár dying before the expiration of his fixed period of service, his heir shall, subject to the provisions of Part VIII [c], be entitled to officiate for the remainder of that period.

Election of officiator in rotation wátán.

[a] **40.** *Clause 1.*—In the case of a wátán in which the representative wátándárs are entitled to perform the duties in successive periods, the Collector shall, on the occurrence of the turn of any such representative wátándár to perform the duties, issue a notice to the whole body of registered representative wátándárs calling upon them to appear before him at a certain time and place to elect an officiator, or such number of officiators as may be required by the Collector under the provisions of section 43 [c].

Clause 2.—If not less than three-fourths, including the wátándár whose turn it is to officiate, of the representative wátándárs appear at the appointed time and place and unanimously nominate a fit and proper person or persons being a wátándár or wátándárs of the same wátán, the person or persons so nominated shall be entitled to officiate in the place and for the period of service of the representative wátándár whose turn it is perform the duties.

Clause 3.—If the person or persons so nominated be other than the representative wátándár whose turn it is to perform the duties, he or they shall

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[a] As to the local repeal of ss. 38 to 40—see footnote [a] on p. 192, *supra*.

[b] This section was substituted for the original s. 38 by Bom. Act V of 1886, s. 8.

[c] Words repealed by Bom. Act III of 1886 are omitted.

for all the purposes of this Act, be deemed to be the duly appointed deputy or deputies of the said representative wátándár.

Mode of appointment if representative wátándárs fail to nominate officiator.

[a] **41.** If, in the case of a wátán in which the representative wátándárs are entitled to perform the duties in successive periods, the representative wátándárs shall not appear at the time and place appointed under the provisions of the last preceding section, or shall fail to nominate an officiator, or the requisite number of officiators, unanimously, then the provisions of this Act as to service by the representative wátándár entitled to officiate and as to appointment of deputies shall apply.

PART VIII.

Officiating Wátándárs and Deputies.

Representative wátándár to perform duties of office.

[a] **42.** Every representative wátándár whose duty it is to officiate shall, if a fit and proper person, perform the duties of the hereditary office himself on being so required by the Collector, but may be permitted by the Collector to appoint a deputy.

Collector to determine number of officiators required.

[a] **43.** The Collector shall determine the number of officiators required for the proper performance of the duties of any office from time to time, and for this requirement may call upon the representative wátándár aforesaid to appoint a sufficient number of fit and proper persons as deputies, or may direct service in successive periods by representative wátándárs who have hitherto served or are serving contemporaneously.

Collector to appoint deputy if wátándár fails.

[a] **44.** If any requisition of the Collector under sections 42, 43, 46 or 48 [b] is not complied with within two months from the date thereof, the Collector may himself appoint a deputy or deputies.

Collector when to refuse service of reprsentative wátándár or of deputy nominated by him.

[a,c] **45.** The Collector shall refuse to accept the service of any representative wátándár or of any person nominated by a representative wátándár to be his deputy, if such representative wátándár or person—

(*a*) is under eighteen years of age;

(*b*) has not passed such educational test, if any, as Government think fit from time to time to prescribe in this behalf;

(*c*) has attained sixty years of age, except when such person's appointment or continuance in office is specially permitted by the Collector;

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[a] As to the local repeal of ss. 41 to 45, see footnote [a] on p. 192, *supra*.
[b] Words repealed by Bom. Act III of 1886 are omitted.
[c] This section was subtituted for the original s. 45 by Bom. Act V of 1886, s. 9.

(*d*) is in the opinion of the Collector disabled by lunacy or imbecility of mind, or by deafness, blindness or other permanent infirmity of body;

(*e*) has been adjudged by the Collector after a summary inquiry held in accordance with the provisions relating to summary inquiries contained in the Bombay Land-revenue Code, 1879, [a] to be of general bad character; Bom. V of 1879.

(*f*) has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf;

(*g*) declines to forsake, whilst officiating, some other employment which is, in the opinion of the Collector, incompatible with the due discharge of the duties of the office.

Procedure when representative wátándár or his deputy is unfit to officiate.

[b,c] **46.** If a representative wátándár whose duty it is to officiate is, or at any time becomes, unfit to officiate for any of the reasons set forth in the last preceding section, the Collector shall call upon him to appoint a deputy, or, if he is disabled by lunacy or imbecility of mind, the Collector shall himself appoint a deputy.

If a deputy so appointed becomes unfit to officiate for any of the reasons aforesaid, the Collector shall call upon the representative wátándár to appoint another, or himself appoint another, as the case may be.

A deputy appointed by a representative wátándár may at any time be removed from office by the Collector at the request of the representative wátándár, if, in the opinion of the Collector, there are good grounds for such request.

On cessation of disqualification, representative wátándár entitled to serve.

[b] **47.** Whenever a representative wátándár whose duty it is to officiate ceases to be disqualified under the provisions of sections 45 and 46[d], he shall become entitled, if otherwise fit, to serve in person or to appoint a deputy in supersession of any deputy appointed by the Collector.

Second nomination of deputy.

[b] **48.** In the case of any nomination of a deputy, the Collector shall allow a second nomination to be made in case of his rejecting the first nomination, and, if he shall reject the second nomination, he shall himself appoint a deputy.

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[a] Printed, *infra*.
[b] As to the local repeal of ss. 46 to 48, see footnote [a] on p. 192, *supra*.
[c] This section was substituted for the original s. 46 by Bom. Act V of 1886, s. 10.
[d] Words repealed by Bom. Act III of 1886 are omitted.

Representative wátándár may officiate for deputy removed.

[a]**49.** The representative wátándár whose duty it is to officiate may himself, if otherwise fit, perform the duties in place of any deputy removed or rejected by the Collector, or deceased.

Collector may nominate deputy if representative wátándár rejected or removed.

[a]**50.** When a representative wátándár has been rejected as being of general [b] bad character, or removed on account of grave misconduct under the provisions of section 58[c], the Collector himself may nominate and appoint a deputy.

Female cannot officiate, but may nominate deputy.

[a] **51.** No female shall perform in person the duties of any hereditary office; but if a representative wátándár, or the guardian of a representative wátándár, she may appoint a deputy.

Collector to appoint deputy when officiator suspended.

[a] **52.** During the suspension of an officiating representative wátándár or deputy, and during any vacancy, the duties shall temporarily be performed by a substitute, whether a wátándár or not, appointed by the Collector.

Deputy must ordinarily be a member of the same family as the representative wátándár whose duty it is to officiate.

[a, d] **53.** Except as is otherwise provided in the last preceding section and in section 56, and except as the Governor in Council shall by a general or special order from time to time otherwise direct, every deputy appointed under this Act shall be a member of the same family to which the representative wátándár whose duty it is to officiate, belongs, if there be a member of such family fit and willing to officiate.

If a representative wátándár declines to appoint as his deputy any such person as aforesaid, the appointment shall be made by the Collector.

Term of appointment of deputy.

[a] **54.** When the Collector appoints a deputy, it shall be for a term not exceeding five years.

When a wátándár entitled to officiate appoints a deputy, it shall be for a term not less than five years, or for life.

The term of appointment of a deputy shall cease and determine on the right of his principal ceasing, or on the death of his principal, and any appointment of a deputy on behalf of a representative wátándár under the age of eighteen years shall terminate on the attainment by such representative wátándár of that age.

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[a] As to the local repeal of ss. 49 to 54, see footnote [a] on p. 192, *supra*.
[b] "General" was substituted for "known" by Bom. Act V of 1886, s. 11.
[c] Words repealed by Bom. Act III of 1886 are omitted.
[d] This section was substituted for the original s. 53 by Bom. Act V of 1886, s. 12.

Officiator if absent or ill may appoint substitute.

[a] **55.** In the event of temporary absence or illness, an officiator may arrange with any fit person for the temporary conduct of the duties, but shall be liable in the penalties prescribed in sections 57 to 61[b].

Head of family when to be treated as wátándár.

[a] **56.** When the hereditary right to perform the duties of an hereditary office as deputies of the original wátándár is vested in a family distinct from that of the original wátándár, the custom shall be recognized, and the heads of the family entitled to perform the duties shall be registered and treated as representative wátándárs.

PART IX.

PENALTIES.

Punishment of officiators.

[a] **57.** It shall be lawful for the Collector to suspend any officiator from office during inquiry into alleged misconduct, and to punish any such officiator for misconduct or neglect of duty by suspension from office for a period not exceeding six months, or by fine not exceeding the fourth part of the annual emolument provided for the officiator.

The order of the Collector shall be final in such cases, except when the penalty is inflicted on an hereditary district-officer.

Collector may remove officiator with sanction of Government.

[a] **58.** It shall be lawful for the Collector, with the previous sanction of Government, in case of fraud, the wilful framing of incorrect records, habitual neglect of duty, or other grave misconduct on the part of an officiator, to remove him from office.

Officiator removed from office ineligible for re-employment.

[a] **59.** Whoever is removed from office under the preceding section shall be ineligible for re-employment or continuance in any hereditary office, except with the sanction of Government, and in case he be a representative wátándár, and his period of performing the duties recurs, the appointment of a deputy under the provisions of Part VIII [b] shall, on the recurrence of such period, be made by the Collector and not by him.

Government may direct forfeiture of a wátán.

[a,c] **60.** When any representative wátándár, or any deputy or substitute appointed by him, is convicted by a Criminal Court, not inferior to a Court of Session, of any offence in the discharge of his official duties, or of any of the offences specified in the second schedule, or of the abetment of any such

[a] As to the local repeal of ss. 55 to 59 and modification of s. 60 see foot-note [a] on p. 192, *supra*.
[b] Words repealed by Bom. Act III of 1886 are omitted.
[c] This section was substituted for the original s. 60 by Bom. Act V of 1886, s. 13.

offence, and such conviction is not subsequently reversed or quashed, the Governor in Council may direct the forfeiture of the whole or of any part of the wátán. Such forfeiture may be either absolute or for such period as the Governor in Council thinks fit.

Forfeiture of life-interest of officiator and deputy for misconduct of deputy.

[a] **61.** All deputies appointed under this Act shall be subject to the same rules in the performance of the duties of their offices, and to the same penalties, except as otherwise provided, as the representative wátándárs themselves are subject to when officiating, and, in the case specified in section 58 of this Act, it shall be lawful for Government to direct the forfeiture of the life-interest in the wátán of the representative wátándár entitled to officiate, whether the officiator guilty of misconduct be such representative wátándár himself or a deputy appointed by him.

Order to be passed after investigation.

[a] **62.** No order shall be passed under this Part except upon perusal of the judgment of a Court or after investigation recorded in writing.

PART X.

Inferior Village Hereditary Offices.

Application of Part X.

63. This Part applies only to hereditary village-offices of lower degree than that of patel or kulkarni.

Powers granted to Collector.

64. The Collector is empowered, subject to the general control of Government—

(*a*) to register the names of individual wátándárs as holders of the office, or to register it as held by the whole body of wátándárs:

(*b*) to determine, when individual names are so registered, the rights, duties, and responsibilities among themselves of the persons so registered, and the mode in which they shall be selected to perform the duties, whether by selection by the Collector or by defined rotation, or by election by the wátándárs, or otherwise, as may be expedient:

(*c*) to require, in cases where the registration is made in the name of the whole body of wátándárs, that they appoint so many fit persons as may be necessary to perform the duties which the Collector may assign to them severally and jointly; such appointment to be made within a reasonable time to be previously fixed and notified to them by the Collector; in default of such appointment being made, the Collector may himself appoint:

[a] As to the local repeal of ss. 61 and 62, see footnote [a] on p. 192, *supra*.

(*d*) to provide for and enforce the joint responsibility of the whole body for the neglect of duty or misconduct of any of their number or their representatives; and, in cases where the crime of cattle-poisoning is prevalent, with the sanction of Government to attach, during the pleasure of Government, the wátáns of the persons whom he may have reason to believe to have been guilty of, or to have connived at the commission of the crime:

(*e*) to pass orders in regard to appointment, remuneration, period of service, suspension, fining and dismissal of persons officiating, the grant of leave of absence and other matters of discipline not expressly provided for by this or any other law for the time being in force.

PART XI.

The Register.

Collector to prepare and keep register.

65. The Collector shall prepare and keep all registers necessary for the purposes of this Act in the form which Government may from time to time prescribe. There shall be one register of lands and allowances in consideration whereof liability to perform service exists, and another of lands and allowances in respect of which no such liability exists.

Non-service register what to contain.

66. In the register of lands and allowances the holders whereof are exempt from service, the Collector shall specify—

(*a*) the area of the lands, the survey-number and assessment, the quit-rent leviable, and the nett revenue alienated by Government:

(*b*) the amount and nature of the cash or other allowances, and the source from which they are payable:

(*c*) the terms of the settlement under which the exemption is enjoyed:

(*d*) the names of the parties to such settlement with Government as indicated in the sanads issued to them:

(*e*) such other particulars as Government may from time to time order to be recorded.

Service register what to contain

[a]**67.** In the register of lands and allowances in consideration whereof liability to serve still exists, the Collector shall specify—

(*a*) the area of the lands, the names of the occupants, the survey number and assessment, the quit-rent, if any, leviable, and the nett revenue alienated by Government, the amount and nature of the cash or

[a] As to the local repeal of s. 67, see foot note [a] on p. 192, *supra*.

other allowances, the source from which they are payable, and the land and allowances assigned, for the remuneration of officiators:

(*b*) the names of the heads of families and of the representative wátándárs:

(*c*) whether the service is performed by one representative wátándár or otherwise: if by several in successive periods, the order in which they are to succeed each other:

(*d*) the proportional share of the wátán possessed by each head of family which may be expressed in annas or fractions of a rupee:

(*e*) the number of officiators required to perform the duties:

(*f*) the nature of the settlement of inferior village-wátáns referred to in Part X [a]:

(*g*) such other particulars as Government may (from time to time) order to be recorded.

Register to be corrected.

68. The register kept under this Act shall be corrected or added to on the occasion of any change being made in accordance with the provisions of this Act in the particulars above specified.

PART XII.

Miscellaneous.

Service to be performed by wátándárs.

[b]**69.** All wátándárs of whatever denomination whose liability to serve has not been commuted are legally bound, subject to the provisions of this Act, to render such service as has been customary or as is required by law.

Wátán records the property of Government.

[c]**70.** All records which have been or may be prepared by any wátándár or by any officiator in an hereditary office in pursuance of the duties of the office, or by order of a superior officer or of the present or former Government, are hereby declared to be the property of Government, and the Collector may enforce their production or the production of any State records in the possession of a wátándár or of an officiator, in accordance with the provisions of sections 25 and 26 of the Bombay Land-revenue Code, 1879 [d].

Bom. V of 1879.

Wátándárs may sign village-records.

[b]**71.** With regard to hereditary offices not inferior to that of patel or kulkarni, it is hereby declared that every head of a family shall have the privilege of signing the abstract of village-land and revenues or other village-papers which it may be customary for him to sign.

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[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] As to the local repeal of ss. 69 and 71, see footnote [a] on p. 192, *supra*.
[c] This section was substituted for the original s. 70 by Bom. Act V of 1886, s. 14.
[d] Printed *infra*.

PART XIII.

PROCEDURE AND APPEALS.

Evidence to be taken.

72. *Clause 1.*—It shall be lawful for the Collector or other officer conducting an investigation under this Act to take evidence, and in sections 193 and 228 of the Indian Penal Code [a] the words "judicial proceeding" shall be taken to include any proceeding under this Act.

XLV of 1860.

Clause 2.—Every person who shall have been summoned to give evidence or to produce any document in his possession, by the Collector or other officer conducting an investigation under this Act, shall be legally bound to attend or to produce such document.

Orders under Parts III, V, VI and VII to be passed after investigation in writing.

[b] **73.** *Clause 1.*—Except as hereinafter provided in clause 2 of this section, no order under Part III [c] directing commutation of a wátán, or under Part V [c] assigning the remuneration of officiators, or under Part VI[c] determining the custom of the wátán as to service and what persons should be registered as heads of families or representative wátándárs, or under Part VII [c] determining the periods of service, shall be passed, unless after an investigation recorded in writing and a proper opportunity afforded for the hearing of claims and the production of evidence.

In each such investigation, and in removals from office under section 58[c] the Collector or other officer shall records his decision with the reasons therefor in his own handwriting.

Certain decisions passed since 1866 to be accepted in lieu of fresh investigation.

Clause 2.—Unless the Governor in Council shall otherwise direct, decisions passed subsequently to the year 1866 after an investigation recorded in writing, and after a proper opportunity had been afforded for the hearing of claims and the production of evidence, and which are recorded with the reasons therefore, in the handwriting of a Collector or his assistant or deputy, shall be accepted, in so far as they may not be inconsistent with the provisions [d] of this Act[d], in lieu of fresh investigation and decision under this Act for the purpose of framing the register required in section 67 [c].

If any details necessary for the said register have not been recorded in any decision of the nature described above, but are forthcoming from the evidence taken in connection with such decision, they may be supplied

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.
[b] As to the local repeal of parts of s. 73, see footnote [a] on p. 192, *supra*.
[c] Words repealed by Bom. Act III of 1886 are omitted.
[d-d] These words were repealed by Bom. Act III of 1886 and re-inserted by Act XVI of 1895.

from such evidence in lieu of fresh investigation for the completion of the register.

Such details as may not be forthcoming shall be obtained by such further investigation as the Collector may deem necessary.

Control of proceedings of Collector.

74. The proceedings of the Collector shall be under the general control of the [a] Commissioner [a] and of Government.

Mámlatdár may make investigation under Part X.

75. The Collector may require any investigation under Part X [a] to be made by a mámlatdár or mahálkari, but the decision thereon shall be made by the Collector.

No appeal to lie save where specially provided.

76. No appeal shall lie from any order made under section 64, clause (c) [a] before final order, nor from any order registering any fact specified under section 67, clauses (*b*), (*c*), (*d*) and (*e*) [a] where the effect of such order is merely to register the same facts as are already recorded in the existing registers kept according to law or under the orders of Government.

Appeals.

77. Except as hereinbefore provided, one appeal only shall lie from every decision passed after investigation recorded in writing by a Collector, or by an Assistant Collector or Deputy Collector [a].

Such appeal, if from the decision of an Assistant Collector or Deputy Collector [a], shall lie to the Collector, and shall be made within sixty days from the date of the order appealed against.

Such appeal, if from the decision of the Collector, shall lie to the [b] Commissioner, and shall be made within ninety days from the date of the order appealed against.

In computing the above periods the time required to prepare a copy of the order or decision appealed against shall be excluded.

Copy of order to accompany petition of appeal. Appeal may be summarily rejected.

78. Every petition of appeal shall be accompanied by a copy of the order or decision appealed against: and it shall be competent for the officer before whom the appeal is presented to reject the appeal if on perusal of the petition it appears to him that there is no sufficient ground for questioning the correctness of the decision, or for interfering with the order appealed against.

Government may call for proceedings.

79. Government may call for and examine the record of the proceedings of any officer for the purpose of satisfying itself as to the legality or propriety of any order passed, and may reverse or modify the order as shall seem fit, or, if it seem necessary, may order a new enquiry.

[a] Words repealed by Bom. Act III of 1886 are omitted.
[b] The word repealed by Act XVI of 1895 is omitted.

Notice how to be served.

80. Service of any notice given under this Act shall be deemed to have been made by the notice being affixed in writing to the wall of the village chaunrí or other public place in the village not less than seven days before action is required to be taken by any person thereon.

Recoveries how made.

81. All recoveries of profits from land, assessments, emoluments or penalties under this Act may be made as provided by any law for the time being in force relating to the recovery of the land-revenue.

Government to frame rules.

82. Government may frame rules not inconsistent with this Act for the guidance of its officers in cases not expressly provided for, and may from time to time modify or revoke any such rules.

Government to determine duties of hereditary officers.

83. Except as is otherwise provided in section 18 [a], Government shall have power, in cases where doubt exists, to determine what duties appertain to any hereditary office.

Grant of powers to special officer.

84. The Governor in Council may from time to time confer on any officer specially selected for the purpose [b] or, so far as concerns any alienated village, on the holder or on any of the holders of such village or on any agent of the holder of such village [b], all or any of the powers and duties which under this Act are required to be performed by a [a] Commissioner or a Collector, and may authorize the delegation to any mámlatdár or mahálkari of the power to fine hereditary village-officers in sums not exceeding two rupees.

[c] Powers and duties conferred under this section shall be exercised or performed subject to such conditions, if any, in addition to those specified in this Act, as the Governor in Council shall from time to time think fit to prescribe, and any order conferring powers and duties under this section may at any time be cancelled by the Governor in Council.

Act not to affect Bombay Act VIII of 1867.

85. Nothing in this Act contained shall be deemed to affect Bombay Act VIII of 1867 [d] or any other law for the time being in force, defining the duties and powers of village-officers or imposing penalties for misconduct; and all references in such laws to Act XI of 1843 [e] shall be taken as made to this Act.

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[a] Words repealed by Bom. Act III of 1886 are omitted.

[b-b] These words were inserted by Bom. Act V of 1886, s. 15 (1).

[c] This paragraph was added by Bom. Act V of 1886, s. 15 (2).

[d] Printed *supra*, p. 120.

[e] Act XI of 1843 was repealed by s. 2 of this Act.

SCHEDULE.

[*Enactments repealed.*]

Repealed by Act XII of 1876.

SECOND SCHEDULE [a].

OFFENCES REFERRED TO IN SECTION 60.

Description of offence.	Sections of the Penal Code [b] under which punishable. XLV of 1860.
(1) Every offience described in Chapter VI of the Indian Penal Code[b]	121, 121A, 122—124, 124A, 125—130.
(2) Causing disappearance of evidence of any offence committed, or giving false information touching it to screen the offender, when the offence committed is a capital offence, or punishable with transportation for life or imprisonment for ten years	201.
(3) Harbouring an offender, if such offender's offence be capital, or punishable with transportation or imprisonment for ten years	212.
(4) Taking gift, etc., to screen an offender from punishment, if such offender's offence be capital, or punishable with transportation for life or with imprisonment for ten years	213.
(5) Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if such offender's offence be capital, or punishable with transportation for life or with imprisonment for ten years	216.

[a] This Schedule was added by Bom. Act V of 1886, s. 16.

[b] For Act XLV of 1860 see revised edition, as modified up to 1st August, 1890, published by the Legislative Department.